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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/715,419

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Sang-Phil Choi

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EXAMINER

TRAN, HANH VAN

ART UNIT

PAPER NUMBER

3637

MAIL DATE

DELIVERY MODE

01/03/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/715,419	Applicant(s) CHOI	
	Examiner Hanh V. Tran	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-22 and 25-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-2, 4-22, 25-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This is the Final Office Action from the examiner in charge of this application in response to applicant's amendment dated 10/10/2006.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2, 4, 7-22, and 25-35 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 2,828,178 to Dahlgren.

Dahlgren discloses a refrigerator apparatus comprising all the elements recited in the above listed claims including a tray comprising a boss provided on an inner surface of a refrigerator door 1 and configured to be covered by a cover, a press plate 12 having a first end configured to be rotatably coupled to the boss and a second end which is opposite the first end and configured to rotate about the boss in a direction toward the inner surface of the door in response to an elastic force applied at the first end, Figs 3-4, a rotatably shaft 13 configured to be rotatably coupled to the boss, an elastic member 15 mounted thereto at the first end of the press plate, a stopper 16 provided in the mounting recess and configured to regulate a turning degree of the plate 12, wherein the tray recess is larger than the plate 12 and the plate is configured to be positioned within the tray recess, a storage space is formed between the plate and the inner surface of the door, and wherein the storage space is adjustable to have a plurality of

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capacity between a fully open and fully closed position of the plate based on a size of a storage item stored in the receiving space as the second end of the press plate rotates about the first end of the press plate so as to accommodate and secure item to be stored therein; wherein the storage space is defined by the press plate and a recess formed in the inner surface of the refrigerator which corresponds to the press plate.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dahlgren.

Dahlgren discloses all the elements as discussed above except for the plate comprises a plurality of wires connected to one another, and the plate is made of a transparent synthetic resin material.

In regard to the plate comprises a plurality of wires connected to one another, since it is well known in the art to provide the inner surface of a refrigerator door with a wire shelf or wire tray for supporting articles thereon, it would have been obvious and well within the level of one skill in the art to modify the plate of Dahlgren by having the plate comprises a plurality of wires connected to one another. In regard to the plate is made of a transparent synthetic resin material, since it is well known in the art to provide elements of a refrigerator tray or shelf with a transparent synthetic resin material for viewing purpose, it would have been obvious and well within the level of one skill in the art to modify the structure of Dahlgren by having the plate being made of a transparent synthetic resin material for viewing purpose.

Response to Arguments

7. Applicant's arguments filed 10/10/2006 have been fully considered but they are not persuasive. In response to applicant's argument on page 11 that "Dahlgren neither discloses nor suggests that the guard 12 includes any type of shelf as does the press plate recited in independent claims 1 and 17", the examiner takes the position that, as stated above in the art rejection, Dahlgren discloses a shaft 13.

8. In response to applicant's argument on page 11 that "Dahlgren clearly discloses that the first end 15a of the spring 15 presses against the shelf 2", and that Dahlgren fails to disclose either end of the spring 15 is supported at a predetermined position on the inner surface of the door, as is the elastic member recited in independent claim 1, nor by the mounting surface, as recited in independent claim 17", the examiner takes the position that the claimed language fails to provide adequate structural limitations in

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order to distinguish from Dahlgren, and shelf 2 is considered to be a part of the refrigerator door with the first end of the spring is supported at a predetermined position on the inner surface of the door, as is the elastic member recited in independent claim 1; nor by the mounting surface, as recited in independent claim 17.

9. In response to applicant's argument on page 12 that if the press plate 12 of Dahlgren was left in the partially open position for storage of a larger item, then the door could no longer be fully closed due to interference from the press plate, the examiner takes the position that (1) it is not clear why the door could no longer be fully closed, (2) the claimed language recited the storage space being adjustable to have a plurality of capacities between a fully open and a fully closed position of the press plate, therefore, if a first stored item is of a size such that the storage space is just a fraction larger than the fully closed position of the press plate, and a second stored item is of a size just a fraction larger than the first stored item such that the storage space is a fraction larger than the storage space of the first stored item, this would meet the claimed limitation of the storage space being adjustable to have a plurality of capacities between a fully open and a fully closed position of the press plate.

10. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., the size of an item to be stored in the storage space) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Conclusion

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (571) 272-6868. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HVT *HVT*
December 24, 2006

LANNA MAI
SUPERVISORY PATENT EXAMINER
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